

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

RICHARD HAMILTON,
Petitioner,

vs

Case No. 1:12-cv-124

Beckwith, J.
Bowman, M.J.

WARDEN, CHILLICOTHE CORRECTIONAL
INSTITUTION,
Respondent.

ORDER

This *pro se* habeas corpus action brought pursuant to 28 U.S.C. § 2254 is before the court on petitioner's motion for evidentiary hearing. (Doc. 9). Respondent opposes petitioner's motion. (Doc. 10). In a separate Report and Recommendation issued this date, the undersigned has recommended that the petitioner's § 2254 petition be dismissed without prejudice based on petitioner's failure to exhaust available state court remedies. Therefore, petitioner's motion for evidentiary hearing (Doc. 9) is **DENIED** as moot.

IT IS SO ORDERED.

/s/ Stephanie K. Bowman
United States Magistrate Judge